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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,249

04/13/2007

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EXAMINER

RAMDHANIE, BOBBY

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

08/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,249	Applicant(s) ORHA ET AL.	
	Examiner BOBBY RAMDHANIE	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/31/2006, 04/13/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Stallman (GB2064998).

3. Applicants' claims are toward an apparatus.

4. Regarding Claims 11-17, Stallman discloses the tray for sample vessels, comprising an upper surface with a plurality of orifices in matrix configuration (See Figure 2), each of which accommodates one sample vessel, wherein each orifice (See Figure 2) comprises two straight positioning walls, which define a positioning corner forming a right angle (See Figure 2 positioning walls are opposite Item 10 in each orifice), the orifice is provided with a flexible support wall having an upper edge, two lateral edges and a lower edge (See Figure 1 Item 10), the upper surface of the tray joining the upper edge of the support wall (See Figure 2 Items 14), which support wall presses a sample vessel, which is inserted into the orifice, towards the positioning corner, and each orifice has at least one side wall joining the lateral edge of the support wall (See Figure 2).

5. Additional Disclosures Included: Claim 12: A tray as defined in claim 11, in which each orifice is provided with a separate support wall (See Figure 1 Items 10,12, 15 &

Figure 2 Item 14); Claim 13: A tray as defined in claim 11, in which the walls of the orifice encircle the orifice peripherally (See Figure 2); Claim 14: A tray as defined in claim 11, in which the support wall is inclined towards the centre of the orifice (See Figure 1 Items 14 & 15, there is an incline from the cut-out); Claim 15: A tray as defined in claim 11, in which an outwardly directed positioning wall is provided in the orifice at the edge of the matrix (See Figure 2, outside wall of rack); Claim 16: A tray as defined in claim 15, in which the outwardly directed positioning walls of the orifices located at the edge join each other, forming a continuous periphery around the matrix (See Figure 2 outside wall may be injected molded and is shown as a uniform structure around the matrix); Claim 17: A tray as defined in claim 11, in which the orifices are disposed in arrays of four each, starting from the corner of the matrix, with the support means oriented towards the centre of the array (See Figure 2).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quackenbush (US3390783).
4. Applicants' claims are toward an apparatus.
5. Regarding Claims 11-17, Quackenbush discloses the tray for sample vessels, comprising an upper surface with a plurality of orifices in matrix configuration (See Figure 2 Item 8), each of which accommodates one sample vessel (See Figure 3), wherein each orifice comprises two straight positioning walls (See Figure 2 there are 2 positioning walls where the tip of the triangle of the orifice meet; & Column 3 lines 1-5), which define a positioning corner (See Figure 2; orifice, there are 2 positioning walls where the tip of the triangle of the orifice meet; & Column 3 lines 1-5), the orifice is provided with a flexible support wall (See Figure 3 Item 32) having an upper edge, two lateral edges and a lower edge (See Figure 2 Item 32), the upper surface of the tray joining the upper edge of the support wall (See Figure 2 Items 8 & 32), which support wall presses a sample vessel which is inserted into the orifice, towards the positioning corner, and each orifice has at least one side wall joining the lateral edge of the support wall(See Column 3 lines 35-37). Quackenbush does not disclose that the positioning corner is a right angle. Quackenbush does however disclose that the positioning corner is a tip of a triangle, which can be easily modified to have a right angle (See Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the positioning corner to be a right angle because according to Quackenbush, it is to be understood that various changes in the device may be made

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by those skilled in the art without departing from the spirit of the invention (See Column 3 lines 64-66).

6. Additional Disclosures Included: Claim 12: A tray as defined in claim 11, in which each orifice is provided with a separate support wall (See Figure 2 Item 32); Claim 13: A tray as defined in claim 11, in which the walls of the orifice encircle the orifice peripherally (See Figure 2 Item 28. Each side of the orifice is defined by a thickness which defines a height, therefore each side defines a wall); Claim 14: A tray as defined in claim 11, in which the support wall is inclined towards the centre of the orifice (See Figure 2 Item 32); Claim 15: A tray as defined in claim 11, in which an outwardly directed positioning wall is provided in the orifice at the edge of the matrix (See Figure 2; orifice Item 30 & See Column 3 line 2); and Claim 16: A tray as defined in claim 15, in which the outwardly directed positioning walls of the orifices located at the edge join each other, forming a continuous periphery around the matrix (See Figure 2 item 30 and 8; Item 30 is a portion of Item 8 which extends continuously around the periphery.

7. For Claim 17, Quackenbush discloses the tray as defined in claim 11, in which the orifices are disposed in arrays of starting from the corner of the matrix, with the support means oriented towards the centre of the array. Quackenbush does not disclose that the array is four rows. Quackenbush does however disclose that the array is five rows. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the array of Quackenbush with an array of four rows because according to Quackenbush, it is to be understood that various changes in the

device may be made by those skilled in the art without departing from the spirit of the invention (See Column 3 lines 64-66).

Telephonic Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BOBBY RAMDHANIE whose telephone number is (571)270-3240. The examiner can normally be reached on Mon-Fri 8-5 (Alt Fri off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on 571-272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bobby Ramdhanie, Ph.D./
Examiner, Art Unit 1797
/B. R./

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797